

Dbrendel.txt

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1 IN THE UNITED STATES DISTRICT COURT FOR THE
2 WESTERN DISTRICT OF PENNSYLVANIA
3 CONSOLIDATION COAL COMPANY,)
4 Plaintiff,)
5 vs.)
6 UNITED STATES DEPARTMENT OF)
7 THE INTERIOR, NATIONAL PARK)
8 SERVICE,)
9 and)
10 CAROL D. SCHULL, individually)
11 and in her capacity as the)
12 Keeper of the National Register)
13 of Historic Places,)
14 and)
15 ROY BRENDDEL and DIANE BRENDDEL,)
16 Defendants.)

Civil Action
No. 00-2120

14

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DEPOSITION OF: DIANE F. BRENDDEL

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- - - -

18

DATE: February 8, 2006
Wednesday, 9:30 a.m.

20

LOCATION: Thorp Reed & Armstrong
14th Floor
One Oxford Centre
Pittsburgh, PA 15219

21

22

23

TAKEN BY: Consolidation Coal Company

24

25

REPORTED BY: Keith G. Shreckengast, RPR
Notary Public
AKF Reference No. KS92307

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1 DEPOSITION OF DIANE F. BRENDDEL,
2 a witness, called by the Plaintiff for examination,
3 in accordance with the Federal Rules of Civil
4 Procedure, taken by and before Keith G. Shreckengast,
5 RPR, a Court Reporter and Notary Public in and for
6 the Commonwealth of Pennsylvania, at the offices of
7 Page 1

EXHIBIT

11

4 times. They're all improper. Move on.
5 MR. KATARINCIC: I don't want to know
6 about your arrangements.
7 MR. HOOK: You just heard my
8 response.
9 MR. KATARINCIC: I just asked her in
10 the \$3 million number if she included the legal
11 fees you thought you'd have to pay Hook.
12 MR. HOOK: She's answered that
13 question. She's not answering it again. Don't
14 ask it again. If you ask it one more time,
15 we're out of here.
16 BY MR. KATARINCIC:
17 Q. what all made up the \$3 million?
18 MR. HOOK: She's answered that.
19 MR. KATARINCIC: No, she has not.
20 MR. HOOK: Yes, she has.
21 BY MR. KATARINCIC:
22 Q. would you please answer, ma'am?
23 MR. HOOK: Don't answer.
24 Q. Break down the \$3 million and what made it up.
25 MR. HOOK: Don't answer. She's

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1 already broken it down to you.
2 Q. Tell me how many dollars for this, how many
3 dollars for that, ma'am.
4 MR. HOOK: She's already answered it.
5 Don't answer it again.
6 MR. KATARINCIC: She's not answered
7 it.
8 MR. HOOK: Yes, she has.

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9 BY MR. KATARINCIC:

10 Q. Break down the numbers that made up the
11 \$3 million.

12 MR. HOOK: She broke it down. Don't
13 answer.

14 Q. The only number I recall getting from you, if
15 I'm wrong, tell me, you said \$1.8 million?

16 MR. HOOK: Don't answer. You gave
17 him a series of numbers, and you don't have to
18 go through them again.

19 Q. You said 60,000. That's how much you told me
20 made up the \$3 million.

21 MR. HOOK: Mr. Katarincic, I'm
22 running out of patience here. She's not
23 answering these questions any further, period.
24 One more question in this area, we're out of
25 here.

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1 MR. KATARINCIC: It's irrelevant to
2 me what your patience level is.

3 MR. HOOK: I'm telling you this to
4 see if you want us to continue with this
5 deposition or you want us to leave at this
6 point.

7 MR. KATARINCIC: I want you to
8 continue, and I have a right to ask the
9 questions.

10 MR. HOOK: Not repetitively. She's
11 finished on that subject matter.

12 BY MR. KATARINCIC:

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13 Q. I just want to know what made up the
14 \$3 million.

15 MR. HOOK: We're done. On the
16 record, I'd like somebody sent up to pick up
17 these boxes.

18 MR. KATARINCIC: There's nobody to be
19 sent up. Those three boxes are in the custody
20 of the court, and you have no right to take
21 them. Mr. Reporter, do you understand that?
22 Are you asking that they be kept in your
23 custody?

24 THE REPORTER: It's my understanding
25 I'm the custodian of the records.

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1 MR. HOOK: On the record, we had an
2 agreement when these were brought up here that
3 they would be made available for their
4 examination, we would return them to our
5 custody, we would make copies of what they
6 wanted to evaluate. As we've stated before,
7 there are original, unique family documents
8 throughout all of these boxes. They cannot be
9 replaced. We set the ground rules, and
10 Mr. Katarincic has unilaterally attempted to
11 change those ground rules. We are returning
12 these to my office. They will be available
13 there for Mr. Katarincic to look at.

14 MR. KATARINCIC: We'll see you here
15 tomorrow. Mr. Brendel is to go tomorrow. He's
16 scheduled for deposition.

17 MR. HOOK: He's not coming back
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18 tomorrow until we arrive at some appropriate
19 ground rules.

20 MR. KATARINCIC: Ground rules on
21 what?

22 MR. HOOK: Just this right here,
23 you're making us carry these out of here.

24 MR. KATARINCIC: Leave them here
25 overnight.

□

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1 MR. HOOK: I'm not going to leave
2 here.

3 MR. KATARINCIC: You don't trust the
4 reporter?

5 MR. HOOK: I told you beforehand they
6 were not to be left here. I told you that
7 before they were brought up here. You
8 obviously have no comprehension of your word.
9 And they are leaving, and they're not coming
10 back until we have some kind of agreement on
11 how they're to be handled. The fact that
12 you're making us carry them out of here to me
13 reflects you in its entirety, Mr. Katarincic.

14 MR. KATARINCIC: Because they're to
15 remain here.

16 MR. HOOK: You know perfectly well
17 what the original discussion was.

18 MR. KATARINCIC: Are they too heavy
19 for you to carry?

20 MR. HOOK: Yes, exactly, I happen to
21 have a ruptured disc in my neck.

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22 MR. KATARINCIC: Well, then if it's
23 so bad, we'll get you somebody.
24 MR. HOOK: I appreciate your
25 consideration.

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1 MR. KATARINCIC: We'll look for you
2 tomorrow again.
3 MR. HOOK: We won't be here,
4 Mr. Katarincic.
5 MR. KATARINCIC: We're moving for
6 sanctions, including fees against you.
7 MR. HOOK: Do whatever you want.
8 MR. KATARINCIC: We will.
9 MR. HOOK: Are you going to bring
10 somebody here for these documents or not?
11 MR. KATARINCIC: We'll send them down
12 to the street level.
13 MR. HOOK: We'll walk with them.
14 MR. KATARINCIC: Will those documents
15 be kept intact and nothing removed from the
16 boxes?
17 MR. HOOK: Of course.
18 MR. KATARINCIC: I don't know about
19 that.
20 MR. HOOK: You're beyond belief,
21 Mr. Katarincic. You would suggest that we
22 wrote bring documents up here in a box and then
23 take them back and remove documents overnight.
24 MR. KATARINCIC: Nobody suggested
25 anything.

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1 MR. HOOK: You asked would they
2 remain intact, and I said yes, and you go well,
3 I don't know if I believe that. That
4 suggestion is so infantile.

5 MR. KATARINCIC: I didn't say that,
6 sir.

7 MR. HOOK: He can read it back. See
8 what he said.

9 MR. KATARINCIC: I believe so.

10 - - - -

11 (The record was read back by the Reporter.)

12 - - - -

13 MR. HOOK: You're insulting
14 intelligent people here, Mr. Katarincic.
15 You're unbelievable.

16 MR. KATARINCIC: No one is insulting
17 anybody. Your theatrics I'm sure are
18 appreciated in Greene County, but not beyond
19 that. I think you're making a grave mistake by
20 leaving here. Courts do not tolerate this
21 walking out of a deposition like this.

22 MR. HOOK: Mr. Katarincic, you
23 refused to cease inquiring into the financial
24 arrangements between my client and myself,
25 after I requested you to cease probably ten

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1 times. That kind of conduct is on top of your
2 repeated refusal to simply ask a question and
3 get an answer and go on. You just came to the

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4 limits of what's appropriate here. Until you
5 can agree on how to conduct yourself, your
6 attempt to hijack these records after they were
7 brought up here in good faith under a set of
8 ground rules, it's simply not possible to go
9 forward.

10 MR. KATARINCIC: Nobody is hijacking
11 anything. They're under the custody of the
12 reporter. He has a fiduciary duty to the
13 Court, not to you or to me. Let me make one
14 other point, only one time was a question asked
15 about arrangements, and you objected, and never
16 again was anything asked about the details of
17 her arrangement with you. I did use the word
18 contingent once, you objected, and I never
19 asked it again.

20 MR. HOOK: I think this record will
21 speak for itself that you repeatedly attempted
22 to delve into the arrangement for the legal
23 fees between my client and myself.

24 MR. KATARINCIC: Mr. Shreckengast, on
25 the record, how do you propose to handle the

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1 fact that these boxes, which are in your
2 custody, are being removed? Are you going to
3 contact a lawyer for your reporting service?

4 THE REPORTER: I'll wait and see if
5 the parties resolve it, and if they don't, I'm
6 sure I'll be notified.

7 MR. KATARINCIC: We're going to
8 notify the Court that you let them go, I'll put
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9 that in my motion, and you're going to say you
10 believe voluntarily.

11 MR. HOOK: Are you going to tell him
12 what to say?

13 MR. KATARINCIC: No, I'm saying are
14 you going to say you agreed to removing them?

15 THE REPORTER: I put my understanding
16 on the record.

17 - - - -

18 (There was a discussion off the record.)

19 - - - -

20 MR. KATARINCIC: There's one document
21 that's marked as an exhibit, one little piece
22 of paper. The agreement of April 15, I'm
23 sorry, April 5, '98, between Roy Brendel and
24 Clinton Piper, one page, calling for the
25 payment of \$300 in phase one and \$300 in phase

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1 two, actually \$300 in each phase. That
2 document is an exhibit, and Mr. Hook insists on
3 taking it from the custody of the reporter.

4 MR. HOOK: This document is labeled
5 Original Letters National Register Nomination.
6 They are the Brendels' personal papers that are
7 part of the history of their efforts to get
8 this property placed on the Historic Register.
9 The ground rules established were that these
10 documents were to be identified as to which
11 ones they wanted copies made of, and we would
12 arrange to have copies made of them. This

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13 document could easily be copied and made an
14 exhibit. There would be no significant change
15 in its --

16 MR. KATARINCIC: Do you want me to
17 copy it now?

18 MR. HOOK: I'm quite happy for you to
19 copy it. You can copy everything in here.

20 MR. KATARINCIC: The whole document?

21 MR. HOOK: You can copy everything in
22 here. I'll tell you what, have it copied in
23 its entirety. There's certainly no objection
24 to any of the documents that you wish to retain
25 being copied, as I had earlier agreed with you.

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1 MR. KATARINCIC: Then leave them
2 here, I'll copy them overnight.

3 MR. HOOK: Mr. Katarincic, I'm not
4 going to leave them here.

5 MR. KATARINCIC: Do it overnight, and
6 when Mr. Brendel comes back tomorrow, they'll
7 be here.

8 MR. HOOK: I'm sorry, Mr. Katarincic,
9 I simply don't trust you. And your conduct
10 certainly justifies that. Trying to hijack
11 these after they were brought up in good faith
12 to me is the height of improper legal practice.

13 - - - -

14 (Thereupon, the deposition was
15 adjourned at 2 p.m.)

16 - - - -

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